

The Orissa Gazette



**EXTRAORDINARY
PUBLISHED BY AUTHORITY**

No. 2587 CUTTACK, TUESDAY, NOVEMBER 29, 2011/MARGASIRA 8, 1933

LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 11th November 2011

No. 10127—II/1 (B)-48/2002-LE.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 12th October 2011 in I. D. Case No. 72/2002 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of M/s Laxmi Packaging Industries, New Industrial Estate, Jagatpur, Cuttack and its Workman Shri Maheswar Maharana, Supervisor represented through Jagatpur Industrial Workers Union, Gosala Road, Cuttack was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 72 OF 2002

Dated the 12th October 2011

Present :

Shri S. A. K. Z. Ahamed,
Presiding Officer,
Labour Court, Bhubaneswar.

Between :

The Management of
M/s Laxmi Packaging Industries,
New Industrial Estate, Jagatpur,
Cuttack.

. . First-party—Management

And

Its Workman
Shri Maheswar Maharana,
Supervisor represented through
Jagatpur Industrial Workers Union,
Gosala Road, Cuttack.

. . Second-party—Workman

Appearances :

None	. . . For First-party—Management
Shri S. N. Biswal, Gen. Secretary	. . . For Second-party—Workman

AWARD

The Government of Odisha in exercise of powers conferred by sub-section (5) of Section 12, read with clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 have referred the matter in dispute to this Court vide Order No. 7514—li/1(B)-48/2002-LE., dated the 17th June 2002 of the Labour & Employment Department, Bhubaneswar for adjudication.

2. The terms of reference is as follows :

"Whether the termination of service of Shri Maheswar Maharana, Supervisor, by the employer of M/s Laxmi Packaging Industry, New Industrial Estate, Jagatpur with effect from the 1st March 2000 is legal and/or justified ? If not, what relief Shri Maharana is entitled to ?"

3. The case of the workman in brief, as set out in his statement of claim is that he was working as a Supervisor under the management since 1983. He was covered under the E.S.I. and E.P.F. Schemes and accordingly E.S.I. and E.P.F. contributions were deducted from his monthly salary. But the management, all on a sudden without any rhyme or reason, terminated his service by way of refusal of employment with effect from the 1st March 2000. He was working continuously under the management with effect from 1983 to Dt. 29-2-2000. Further contention of the workman is that while terminating his service, the management has not followed the mandatory provisions of Section 25-F of the Industrial Disputes Act, 1947. There was no allegation against him and no charge was framed against him and also no domestic enquiry was conducted by the management for any misconduct as per principles of natural justice. So in this background, the workman has prayed for his reinstatement in service with full back wages.

4. The management was set *ex parte*

5. In order to substantiate his plea, the workman has examined himself as W.W. 1 and proved the documents under the cover of Exts. 1 to 22.

6. The workman in his affidavit evidence has corroborated the facts as stated in his statement of claim. Since the management has been set *ex parte* and the evidence both oral and documentary tendered by the workman have remained unchallenged, I have no option but to answer in affirmative in favour of the workman.

7. It is stated by the workman that no one month prior notice was given to him before he was terminated. Also notice pay or any compensation was paid to him before refusal of employment by the management. So the management has contravened the provisions of Section 25-F of the Industrial Disputes Act, 1947 which is a mandatory and precondition one. So on careful consideration of all the materials available in the case record and in view of the unchallenged testimony of the workman, I came to the finding that the termination of service of the workman by the management with effect from the 1st March 2000 is illegal and unjustified and he is entitled to be reinstated in service.

8. Regarding back wages, admittedly the workman had not worked for the management during the period in question and he had not proved by cogent evidence that he was not gainfully employed elsewhere. So payment of full back wages is not justified. But on careful consideration of

all the materials available in the case record as discussed above, I am of the opinion that instead of granting full back wages, 50% back wages will meet the ends of justice in this case.

9. Hence, it is ordered :

That the termination of service of Shri Maheswar Maharana, Supervisor by the employer of M/s Laxmi Packaging Industry, New Industrial Estate, Jagatpur with effect from the 1st March 2000 is neither legal nor justified. The workman is entitled to be reinstated in service with 50% back wages. The management is directed to implement this Award within a period of one month from the date of its publication failing which the amount shall carry interest at the rate of 10% per annum till its realisation.

The reference is answered accordingly *ex parte*.

Dictated and corrected by me.

S. A. K. Z. AHAMED
12-10-2011
Presiding Officer
Labour Court, Bhubaneswar

S. A. K. Z. AHAMED
12-10-2011
Presiding Officer
Labour Court, Bhubaneswar

By order of the Governor
T. K. PANDA
Under-Secretary to Government